

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

MARTIN KRAUTTER,

Charging Party,

-v-

WAL-MART, Inc.,

Respondent.

Case # 0071012315

**FINAL AGENCY DECISION
AND ORDER**

Martin Krautter (Krautter) filed a complaint with the Department of Labor and Industry (Department) alleging that Wal-Mart discriminated against him on the basis of his disability of asthma when he was not allowed to work on an inside aisle away from the outer doors. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Krautter's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Krautter filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on November 14, 2007.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Section 49-2-511(3)(a), MCA*. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Section 49-2-511(3)(b), MCA; Mont. Code Ann. § 2-4-702.* This review must be requested within 30 days after the date this order is issued.

IT IS HEREBY ORDERED, that Martin Krautter's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Wal-Mart, Inc.

DATED this ____ day of November, 2007.

Ryan Rusche, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of November, 2007.

MARTIN KRAUTTER
712 CARTER STREET
DEER LODGE MT 59722

WAL-MART
GENERAL MANAGER
3901 HARRISON AVENUE
BUTTE MT 59701

KRISTIN OLIVER
WAL-MART
702 SOUTH WEST 8TH STREET
BENTONVILLE AR 72716

MARK HUDSON
BAIRD HOLM LLP
1500 WOODMEN TOWER
OMAHA NE 68102-2068

Montana Human Rights Bureau